

Message Text

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TAGS: IND, DA

SUBJ: COMMERCIAL AGENCY TERMINATION LAWS

REF: STATE 127527

1. THE FOLLOING INFORMATION HAS BEEN DEVELOPED IN DISCUSSION WITH THE ASSOCIATION OF DANISH COMMERCIAL AGENTS: THERE ARE NO STATUTORY REGULATIONS REGARDING ADVANCE NOTICE OR COMPENSATION. HOWEVER, UNDER A LAW FROM 1918, CHAMBER OF COMMERCE MAY BE CALLED UPON TO GIVE OPINION ON CLAIMS OF UNJUSTIFIED TERMINATION OF AGENT/PRINCIPAL RELATIONSHIP. PRACTICE HAS BEEN THAT CHAMBER RECOMMENDATIONS ADVOCATE 3-6 MONTHS NOTIFICATION AND 6-12 MONTHS COMPENSATION BASED ON ANNUAL GROSS COMMISSION AVERAGED OVER PAST 3-5 YEARS.

2. FOLLOWING ENGLISH SUMMARY OF NORDIC AGENT COMMISSION ACT DRAFT REPORT INDICATES TREND OF PROPOSED RULEMAKING. OUR INFORMATION INDICATES NORWAY AND SWEDEN HAVE ALREADY PASSED LAW BASED ON THIS DRAFT. PROBABILITY THAT DENMARK WILL ACT ON THIS REPORT REMOTE SINCE STANDARDIZATION OF AGENC LAW PRESENTLY BEING DISCUSSED IN EC COMMISSION. OUR BEST INFORMATION INDICATES IT MAY BE ANOTHER TWO YEARS BEFORE DENMARK HAS AN AGENCY LAW ON THE BOOKS. HOWEVER, ASSOCIATION APPEARS WILLING TO WAIT, EXPECTING MORE STRINGENT REGULATIONS WHEN FINAL HARMONIZATION LEGISLATION COMES OUT OF BRUSSELS.

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PAGE 02 COPENH 01718 211605Z

3. FOLLOWING TRANSLATION OF COMMITTEE REPORT SENT AS GUIDANCE

ONLY: "THE COMMITTEE RECOMMENDS THAT RULES BE MADE CONCERNING TERMINATION OF AN AGENCY. IF THE AGENCY IS CONTINUOUS AND HAS LASTED LESS THAN ONE YEAR, THE MUTUAL TERM OF NOTICE SHOULD BE AT LEAST 1 MONTH. IF IT HAS LASTED LONGER, TERM OF NOTICE SHOULD BE AT LEAST 3 MONTHS.

COMPENSATION: THE COMMITTEE DOES NOT RECOMMEND COMPENSATION WITH REGARD TO LOSS OF CUSTOMERS, A SO-CALLED GOODWILL COMPENSATION, WHICH IS KNOWN IN SEVERAL WEST EUROPEAN COUNTRIES. IT DOES RECOMMEND HOWEVER, THAT NEW RULES BE MADE CONCERNING AN "AFTER-COMMISSION" AND COMPENSATION FOR INVESTMENTS. THE COMMITTEE RECOMMENDS THAT THE AGENT BE ENTITLED TO A COMMISSION ON SALES TERMINATED AFTER THE EXPIRATION OF THE AGENCY, IF THE DEAL IS CONSIDERED A RESULT OF THE AGENT'S EFFORTS DURING THE AGENCY PERIOD. THE SIZE OF THE CLAIM HAS NOT YET BEEN FIXED, AND THE COMMITTEE FORESEES A NUMBER OF DIFFICULT ESTIMATES. THE COMMITTEE SUGGESTS THAT THE "AFTER-COMMISSION" BE (IN LACK OF ANY OTHER EVIDENCE) 3 MONTHS COMMISSION BASED ON AN AVERAGE OF THE MONTHLY COMMISSIONS DURING THE LAST YEAR. THE RULE SHALL NOT APPLY, HOWEVER, WHEN THE AGENCY HAS EXISTED LESS THAN 1 YEAR, OR HAS BEEN TERMINATED WITH A NOTICE OF AT LEAST 6 MONTHS. IN ADDITION, THE COMMITTEE SUGGESTS THAT A RULE BE MADE TO THE EFFECT THAT THE AGENT BE ENTITLED TO A REASONABLE COMPENSATION FOR LOSSES SUFFERED DUE TO SPECIAL INVESTMENTS IN BUILDINGS, STOCKS, MACHINERY, VEHICLES, ETC; WHICH WERE MADE WITH A VIEW TO PERFORMING THE AGENCY ACTIVITY AND ACCORDING TO A PREVIOUS ARRANGEMENT OR AGREEMENT WITH THE PRINCIPAL".
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